

**MONTGOMERY COUNTY PLD LOT 44 & 4702 WEST VIRGINIA AVENUE  
SKETCH PLAN NO. 32019006B, PRELIMINARY PLAN NO. 120240110, AND SITE PLAN NO.  
820240140**

**REVISED PROJECT NARRATIVE AND JUSTIFICATION STATEMENT**

**I. INTRODUCTION**

BB 4702 Holding LLC (the “Applicant” or “Broad Branch”) is part of a joint venture that was selected to redevelop Montgomery County Parking Lot 44 (“PLD Lot 44”) through a competitive Request for Development Proposals (“RFDP”) process conducted by Montgomery County (the “County”). Broad Branch owns the abutting lot to the east, 4702 West Virginia Avenue, and the assembled site totals approximately 32,375 square feet of tract area and is bounded by West Virginia Avenue to the north, 4700 West Virginia Avenue and Tilbury Street to the east, a 10’ paper alley and Chase Avenue Urban Park to the south, and to the west of a 10’ public alley and 7935 Wisconsin Avenue (the “Property”).<sup>1</sup>

The Property is improved with approximately 44 public surface parking spaces and a single family detached dwelling unit. The Property is split zoned Commercial-Residential (CR-3.0, C-2.0, R-2.75, H-70), Commercial Residential Town (CRT-0.5, C-0.25, R-0.5, H-70) and Bethesda Overlay Zone (BOZ), in the northern portion of the Eastern Greenway District of Downtown Bethesda as identified in the Bethesda Downtown Sector Plan, approved and adopted in May of 2017 (the “Sector Plan”).

The Applicant is filing combined sketch plan amendment (the “Sketch Plan”) and site plan (the “Site Plan”) under the optional method of development in the CR Zone in accordance with Section 7.3.3 of Montgomery County Zoning Ordinance (the “Zoning Ordinance”), and an associated Preliminary Plan of Subdivision (the “Preliminary Plan”) under the Montgomery County Subdivision Regulations (the “Subdivision Regulations”) (collectively, the “Applications”). The Applications are being processed concurrently pursuant to M-NCPPC’s speed to market designation (a copy of which is attached hereto as Exhibit “A”). In connection

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<sup>1</sup> The Property is also identified as Block 9, Lots 11-14 as shown on a Plat entitled “West Chevy Chase Heights” recorded in the Land Records of Montgomery County at Plat No. 186, and Block 9, Lot 29 as shown on a Plat entitled “West Chevy Chase Heights” recorded in the Land Records of Montgomery County at Plat No. 23734.

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with this speed to market designation, the Applicant previously processed Concept Plan No. 520240120 through the Development Review Committee (“DRC”).

As described in greater detail below and pursuant to a General Development Agreement (the “GDA”) negotiated with the County, the Applicant is proposing to redevelop the Property with up to 120,000 square feet of multi-family residential uses, up to 5,469 square feet of non-residential uses (6 live/work units), up to 99 structured private parking spaces, and a ±43’-6”-wide public park integrated into the Eastern Greenway (the “Project”). The Applicant is currently proposing approximately 53 for-sale multi-family units, including 7 MPDUs that will be deeply affordable (i.e., the sales prices will be affordable to 50% Area Median Income) with reduced condominium assessments as negotiated with the Department of Housing and Community Affairs (“DHCA”) as part of the GDA. The 7 for-sale MPDUs will be provided based on the density attributable to the County land (i.e., ±46 total units, as provided for in the GDA), and the Applicant is proposing to satisfy the MPDU requirements for the additional density achieved from the private land (4702 West Virginia Avenue), up to 7 for-sale multi-family units and 6 live/work units, through an alternative payment to the Housing Initiative Fund pursuant to Section 25A-5A of the County Code. In coordination with the Project, the Applicant’s joint venture partners will be redeveloping Montgomery County Lot 25 which is two blocks to the north.<sup>2</sup>

## II. THE PROPERTY AND SURROUNDING AREA

The Property is located in close proximity to a variety of transit (e.g., Bethesda and Medical Center Metro Stations, and the future Bus Rapid Transit and Purple Line stations), amenities, and a mix of uses. Redevelopment of the Property will allow for an important pedestrian connection between the parkland and public open space planned for the blocks to the north, and Chase Avenue Urban Park to the south, which will serve as the southern terminus of this segment of the Eastern Greenway. As illustrated on Figure 3.15 from the Sector Plan (copied below), absent the Applicant’s incorporation of 4702 West Virginia Avenue (denoted by yellow highlighting) into this Project, it would be infeasible to have continuous and cohesive park space that links the

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<sup>2</sup> Redevelopment of Lot 25 will occur through separate development applications and deliver structured public parking, additional public parkland, and deeply affordable rental MPDUs in accordance with the GDA.

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blocks to the north to Chase Avenue Urban Park because of a holdout property owner at the southwest corner of West Virginia Avenue and Tilbury Street (4700 West Virginia Avenue, outlined in red below).



The Project has proximity to the single-family neighborhood to the east, and, the assembled block to the north, located between Highland and West Virginia Avenue, is subject to a Preliminary Plan and Sketch Plan approval that permits up to 350 multi-family dwelling units, up to 15,000 square feet of commercial uses, and a 70'-wide park integrated into the Eastern Greenway ("8001 Wisconsin Avenue"). As noted above, the Applicant's joint venture partner will redevelop Lot 25 on the block further to the north to allow for up to 230,000 square feet of multi-family residential uses (including additional deeply affordable MPDUs), up to 145 structured public parking spaces, and a ±93'-wide public park integrated into the Eastern {00596705;2 }

Greenway. A 10' wide public alley and various commercial buildings are located to the west of the Property along Wisconsin Avenue. A number of mixed-use high-rise buildings are located further to the west, across Wisconsin Avenue, which serves as the gateway to the Woodmont Triangle District.

The Sector Plan characterizes the northern section of the Eastern Greenway “by low-density, primarily residential development, green open spaces and paved parking lots screened with landscaping,” and notes that the western edge of the transition area is the CBD line.” (Sector Plan, p. 133). The Sector Plan provides that “the area is located only half a block from the commercial uses within the Downtown Bethesda area on Wisconsin Avenue, and redevelopment of Wisconsin Avenue North sites will have an impact on the transitional area and the East Bethesda neighborhood.” (Sector Plan, p. 133). The Applications propose to transform this underutilized Property into multi-family residential units while creating the Sector Plan envisioned “compatible transition between higher density development along Wisconsin Avenue and the East Bethesda and Town of Chevy Chase neighborhoods” through the construction of a ±7,485 square-foot public park integrated into the Eastern Greenway. (Sector Plan, p. 133). Preliminary Plan Sheet No. 1.01 shows a breakdown of the various land areas dedicated toward the public park integrated into the Eastern Greenway.

### III. PRIOR APPROVALS

On June 6, 2019, the Montgomery County Planning Board (the “Planning Board”) approved the Sketch Plan for redevelopment of 4702 West Virginia Avenue with a maximum of 20,000 square feet of multi-family residential square feet, including an allocation of up to 14,750 square feet of BOZ density. On May 14, 2020, the Planning Board approved the Site Plan and a Sketch Plan amendment allowing for up to 21,500 square feet of multi-family residential square feet (up to 19 dwelling units), including an allocation of up to 16,250 square feet of BOZ density. No MPDUs or dedicated parkland were required as part of these previous approvals. The Applicant is proposing to amend the Sketch Plan to incorporate PLD Lot 44 and increase the allowable density and public benefits and amenities delivered through redevelopment.

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#### IV. THE PROJECT

The Application proposes a mixed-use development with up to 53 multi-family dwelling units (up to 120,000 square feet of gross floor area), up to 5,469 square feet of incidental non-residential uses (6 live/work units), an approximately 7,000 square-foot public park, up to 99 structured parking spaces, and private amenities. The Project will include 15% MPDUs attributable to the density from Lot 44 (46 units), which equates to 7 MPDUs that will be deeply affordable (i.e., the sales prices will be affordable to 50% Area Median Income) with reduced condominium assessments (a reduction of approximately 80% per square foot) as negotiated with the Department of Housing and Community Affairs (“DHCA”) as part of the GDA. Significantly, the Applicant is proposing to provide larger for-sale MPDUs than otherwise required to accommodate families, with five (5) 4-bedroom MPDUs, one (1) 3-bedroom MPDU, and one (1) 2-bedroom MPDU. The Applicant is proposing to satisfy the MPDU requirements for the additional density achieved from the private land (4702 West Virginia Avenue), up to 7 for-sale multi-family units and 6 live/work units, through an alternative payment to the Housing Initiative Fund (“HIF”) pursuant to Section 25A-5A of the County Code. The payment to the HIF is proposed to account for two (2) MPDUs which would include a standard condo fee assessment that would make this MPDU effectively unaffordable to eligible buyers in accordance with Section 25A-5A(a)(1)(A) of the County Code. A more detailed request setting out this alternative payment has been submitted to DHCA and will be specified in DHCA’s formal recommendation letter to the Planning Board.

In keeping with the Sector Plan and the Bethesda Downtown Plan Design Guidelines (the “Design Guidelines”), the Project incorporates a 43’-6”-wide public park that will be constructed and dedicated to the County to create a compatible transition between Wisconsin Avenue and the established single-family community to the east. Further, the Project is responsive to the surrounding as-built environment and Sector Plan recommendations by including a step down from the high-rise portion of the Project (up to 114 feet tall), containing up to 47 for-sale condo units and up to 6 live/work units, from the western portion of the Property to 6 townhouse style multi-family units along the eastern portion of the Property with a maximum height of 43’-6” feet along the proposed Eastern Greenway Public Park dedicated and constructed by the Applicant. As illustrated on Figure 3.15 from the Sector Plan (copied above on page 3), absent

the Applicant's incorporation of 4702 West Virginia Avenue into the Eastern Greenway, it would be infeasible to have continuous and cohesive park space that links the blocks to the north to Chase Avenue Urban Park because of a holdout property owner at the southwest corner of West Virginia Avenue and Tilbury Street (4700 West Virginia Avenue).

In summary, the Project will result in replacement of an under-utilized surface parking lot with an infill multi-family residential building, structured public parking and a public park that advance each of the priorities of the Sector Plan (i.e., (1) parks and open spaces; (2) affordable housing; (3) environmental innovation; and (4) economic competitiveness). (Sector Plan, p. 6). The inclusion of deeply affordable for-sale MPDUs will provide home ownership opportunities in larger, family-size units that are rarely found in the Sector Plan boundaries, while also allowing for a significant public amenity in the form of a public park dedicated to the County.

#### Architectural Concept

The Project will enhance the connectivity of the Eastern Greenway to the north and south and provide a residential scale along this future park, activating it with townhome entrances and balconies, and a landscaped connection with Chase Avenue Urban Park. The design of the Project shifts the bulk and height of residential uses further to the west, which will help to establish the Eastern Greenway Park system as a landmark that separates the urban Wisconsin Avenue Corridor from the single-family neighborhood to the east.

The Applications allow for conversion of a little used urban surface parking lot into a walkable community, enhancing and defining the Eastern Greenway, and providing a western edge to the low-rise residential neighborhood east of Tilbury Street. By defining this edge, it reduces the view of the urban, commercial district from the residential district and enhances the landscape buffer between these two districts. This allows the building residents access to a mix of uses (employment, retail, and civic) surrounding the Property. Significantly, there is a very limited amount of townhouse style and family size multi-family units in Downtown Bethesda, and this unique housing type will be different than many of the high-rise flats being delivered in the Bethesda CBD and allow for varied lifestyle choices in the market.

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### Access and Circulation

The Project is designed with one curb-cut on West Virginia Avenue to allow for ingress and egress to the on-site parking garage. The proposed curb-cut for the driveway is located toward the middle of the Project for two important reasons. First, the Project includes a public park that will be integrated into the Eastern Greenway and townhouse style multi-family units along the eastern portion of the Property to achieve the Sector Plan's land use vision for the Property. As a result, there is no viable location for a curb-cut along the eastern portion of the Property's frontage. Additionally, the 8001 Wisconsin Avenue development has an approved curb-cut for a loading bay that is located across the western portion of the Property's frontage. In order to ensure that there are not conflicts between truck movements at this adjacent loading bay, the Applicant located its proposed curb-cut in a central location to promote safe and efficient pedestrian, bicycle and vehicle movements on West Virginia Avenue.

### *Loading Bay Waiver*

As noted above, the Project will include approximately 53 for-sale multi-family dwelling units and 6 live/work units. In this respect, Section 59-6.2.8.B.1 of the Zoning Ordinance exempts a project with less than 50 multi-family dwelling units from providing an off-street loading space. Given that the Project is just over the threshold for requiring an off-street loading space and that all the units will be for-sale, the Applicant is seeking a waiver to eliminate the off-street loading space pursuant to Section 59-6.2.10 of the Zoning Ordinance. As described below, the elimination of the off-street loading space will better meet the intent of Division 6.2 ("The intent of the vehicle and bicycle parking, queuing, and loading requirements is to ensure that adequate parking is provided in a safe and efficient manner.")

As part of the Prior Site Plan Approval, the Applicant coordinated with MCDOT to allow for a portion of the existing West Virginia Avenue right-of-way to be labeled and identified for loading and service activities. As illustrated in the Concept Plan submission, the on-street loading zone has been located to the east of the Project's proposed curb-cut to ensure that there is adequate sight distance. While the Prior Site Plan Approval only contemplated 19 for-sale units and did not require an off-street loading space, the Applicant is seeking MCDOT's approval to

continue this alternative loading scheme as part of the expanded Project. As a for-sale building with only 53 units, an off-street loading bay is not necessary to accommodate the infrequent moving trucks that will serve residents of the Project. The Applicant has studied the pace and volume of sales at a comparable condo project in Bethesda (the Cheval, 4990 Fairmont Avenue).<sup>3</sup> Based upon its analysis of this similar project, it anticipates that approximately 2 units on average will be sold each month for a period of 24 to 36 months until all of the units are sold. This will result in move-in activities for up to 2 units on average each month. When the building achieves full occupancy, the Applicant anticipates approximately 1 resale per year, which will result in very infrequent loading needs for residents moving in and out.

Based on the unique operational aspects of the Project, designation of an on-street loading space along the Project's West Virginia Avenue frontage will allow for safe and efficient moving activities, and also serve as a short-term parking space for Amazon, Fedex, UPS, and related deliveries for the entire block. The Applicant is proposing a loading management plan, which will ensure that a provision is incorporated in the condominium documents requiring that the minimal loading activities associated with residents moving in and out of the Project be: (a) coordinated amongst the other unit owners; and (b) conducted outside of the weekday peak hour periods to the maximum extent practical. Additionally, all trash for the Project will be maintained within the parking garage and placed along the public alley for pick-up during limited periods of time. The elimination of an off-street loading space will improve pedestrian and bicycle movements along West Virginia Avenue by minimizing the extent of disruptions in the sidewalk.

#### *East/West Paper Alley Abandonment*

As described in greater detail below and pursuant to Section 49-68 County Code, the Applications propose abandonment of a large portion of a previously unused 10'-wide paper alley that runs in an east/west direction to the south of the Property. The portion of the paper alley proposed to be abandoned was never improved or used for the purposes for which it was intended or dedicated (i.e., a service alley for vehicles), and the right-of-way is not necessary for

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<sup>3</sup> The Cheval is a high-rise condo project with 71 units. The sales history for the Cheval is attached as Exhibit "B".  
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anticipated public use. As detailed in the plan submittals, the easternmost portion of the paper alley is proposed to be abandoned because it is contiguous to Chase Avenue Urban Park and the future Greenway parcel that will be dedicated by the Applicant. The westernmost portion of the paper alley, adjacent to the high-rise portion of the Project, must be maintained to satisfy fire department access and building code requirements. The proposed abandonment will allow for more publicly accessible open space and enhance the Eastern Greenway.

*North/South Service Alley to West of the Property*

The Property abuts a 10' wide public alley to the west; however, access and loading from the public alley is not feasible due to limited alley width and lack of an opportunity to obtain additional right-of-way from the property to the west of the alley for the foreseeable future. Notwithstanding that the County's Road code (Chapter 49, Article 3 of the County Code) establishes a minimum public alley width of 20 feet, there is no viable path to creating such a section through these Applications. In this respect, the Applicant is seeking relief from dedicating an additional 5 feet of right-of-way toward this non-standard public alley that cannot support access or loading for the Project. The design of the Project includes an on-street loading space that will better serve the future needs of residents and allow for safe and efficient vehicular and pedestrian movements. It is also significant that the Applications include a substantial dedication on the eastern portion of the Property to allow for a 43'-6"-wide public park that is contemplated by the Sector Plan. If the Project were required to dedicate an additional 5' on this non-standard alley, it would substantially impair its ability to deliver the quality of housing necessary to absorb the cost of dedicating and constructing the public park and delivering deeply affordable for-sale MPDUs.

Proposed Public Use Space and Streetscape and Landscape Concept

Since the Property's tract area is between 0.51 and 1 acres and it has frontage on 1 master-planned right-of-way (West Virginia Avenue), 0% of the site (19,276 square feet) is required to be provided as public open space. Notwithstanding the fact that no public open space is required to be provided, the Applicant is proposing to dedicate approximately 7,000 square feet for a public park to further the Sector Plan vision for the Property. The proposed public park is consistent with the Parks Department's Eastern Greenway Framework Concept and will allow

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for an important connection between the 8001 Wisconsin Avenue development's greenway and Chase Avenue Urban Park.

#### Green Features and Stormwater Management

The Project is designed to provide a minimum of 35 percent green cover on site through a combination of intensive green roof and bioretention planter boxes on the building, and additional plantings at the ground level. As illustrated on the Concept Stormwater Management Plan, the Project will provide Environmental Site Design ("ESD") to the maximum extent practicable using structural micro-bioretention planters and green roofs. The micro-bioretention planters will receive runoff from the townhouse portion of the project, and the tower structure will be covered by approximately 7,000 square feet of 8" green roof (35% of the development property). An additional micro-bioretention planter is located on the eastern greenway to provide stormwater management for that property. As there is inadequate space on the properties or in the right of way to provide any further ESD or underground stormwater management, a partial waiver is also proposed.

#### BOZ Density and Park Impact Payment Off-Set

The Project is proposed to total up to 125,469 square feet of gross floor area, with 120,000 square feet of multi-family dwelling uses (up to 53 dwelling units) and 5,469 square feet of live-work units (6 units) and ancillary coworking space for the future residents. Based on the Property's split CR/CRT zoning, approximately 70,875 square feet of commercial and residential uses can be constructed under this base density. As a result, the Applicant is seeking an allocation of 54,594 square feet from the BOZ to fill in the allowable building height envelope.

Pursuant to Section 59-4.9.2.C.2.b.ii.B, the Applicant is requesting a reduction in the amount of the Park Impact Payment (the "PIP") because the public park being dedicated is designated in the Sector Plan as recommended open space (the Eastern Greenway). Based upon M-NCPPC staff's formula establishing the land value of the 6,011 square feet of land dedicated as a public park (the land value credit against the PIP is \$1,546,515), the Applicant is requesting that the PIP for

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the Project be \$0 because the allowable credit exceeds the otherwise due PIP (\$681,879.06).<sup>4</sup> The detailed calculation for this allowable PIP credit is set on Site Plan Sheet No. SP 2.01.

#### Building Height (Major Public Facility)

While the zoned height for the Property is 70 feet, the Applicant is requesting Planning Board approval for 48 feet of height to be added to the Project for a floor mostly used for above-grade parking pursuant to Section 59-4.5.2.A.2.e of the Zoning Ordinance. This provision states that “[w]ith Planning Board approval, any Optional Method project in a CR zone that includes the provision of a major public facility<sup>5</sup> under Section 4.7.3.A may add the height of any floor mostly used for above grade parking to the maximum height otherwise allowed, when the major public facility diminishes the ability of the applicant to provide parking at or below grade.” The inclusion of the public park (a major public facility) as part of the Project diminishes the Applicant’s ability to provide parking at or below grade and such parking is necessary to support the approximately 53 for-sale units and 6 live/work units proposed. The above-grade parking levels contain between 19 and 22 spaces per floor for a total of 81 parking spaces, which are necessary for the Project’s viability as explained below.

#### *Market Demand and Parking for Large For-Sale Units (including MPDUs)*

While the proposed parking ratio of 1.67 spaces per unit (99 spaces for 59 units) is higher than many other recent residential projects approved and constructed in the Bethesda CBD, the Project is distinguishable from the more typical rental project for several reasons. First and most importantly, the Project includes a for-sale units with a unit mix that includes substantially larger units than a typical rental project. More than 70% of the dwelling units are proposed as 3-bedroom and 4-bedroom units, which results in large, family-size units (including MPDUs). Market conditions for larger, family-size for-sale units demand closer to 2 parking spaces per

<sup>4</sup> While the land value of the public park being dedicated is sufficient to reduce the PIP due for the Project to \$0, the Applicant notes that Section 59.4.9.2.C.3.c.i of the Zoning Ordinance states that “[a] Park Impact Payment is not required for the gross floor area allocated for MPDUs.” Therefore, the square feet of MPDUs proposed would also be deducted from the BOZ density requested if any PIP was due.

<sup>5</sup> Section 59-4.7.3.A.1 of the Zoning Ordinance defines major public facilities to “include, but are not limited to, such facilities as a school, library, recreation center, *park*, County service center, bike share station, public transportation or utility upgrade, or other resource delineated in an applicable master plan.” (emphasis provided).

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unit. If the Project were required to be developed with rental units (i.e., if the Applicant were unable to provide market-responsive parking for a for-sale project), the proposed 125,469 square feet would likely yield approximately 150 rental units. Such a rental project, with more typical smaller units, would still necessitate approximately 99 parking spaces (a parking ratio of 0.66 spaces per unit). However, there are presently a large number of more typical multi-family rental units in the pipeline for the Bethesda CBD and a very limited number of for-sale multi-family units planned for this same area (**no for-sale MPDUs are currently in the development pipeline as the most recent approvals with for-sale units allow for alternative payment agreements with DHCA**). In this respect, Thrive Montgomery 2050 notes that “**more than one quarter** [of all new dwellings to meet demand by 2045] will need to be **for-sale units in multifamily buildings**.” (Thrive, p. 131) (emphasis provided). Moreover, the proposed market-rate condo units must be able to capture market demand for the Applicant to deliver the proposed public benefits of deeply affordable for-sale units and a dedicated public park (including the improvements) that is not reliant on public funding (PIP or other CIP funding that is currently being used for various other public parks in the Bethesda CBD).

*The dedicated public park (greenway) diminishes the ability of the applicant to provide parking at or below-grade*

In order to dedicate the public park to the County, it is critical that there not be below grade parking that encroaches under this future public space (private uses are generally not permitted to be located beneath a publicly dedicated parkland). Since it is necessary to keep the structured parking free and clear of the 43’-6” public park, the Property provides limited space to excavate a parking garage that is functional and economically viable. Excavating beyond one level of below grade parking and ensuring that such parking doesn’t encroach beneath the public park would constrain the Applicant’s ability to construct the Project with the public benefits proposed. The Applicant’s underwriting as part of the GDA requires that it achieve a certain amount and quality of market-rate condo units to allow for the future public park (and 7-family sized deeply affordable MPDUs). In order to meet market demands for the condo units, the Applicant must also provide sufficient parking as detailed in the previous paragraph. Last, it is important to avoid encroachments beneath the public park to allow for an enhanced park design that will support extensive plantings. As a result, the Project includes approximately 114 feet of building

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height with the height of floors mostly used for above grade parking excluded from the mapped height of 70 feet, on the western portion of the Property. This calculation of additional building height is detailed on the illustrative north-south building section included with the Site Plan (excerpted below).

Additional Building Height - Major Public Facility (Section 59-4.5.2.A.2.e)

\*Note: The Project includes a major public facility in the form of a public park that will be dedicated to Montgomery County. This major public facility (a dedicated public park) diminishes the applicant's ability to provide parking at or below grade. The floors mostly used for above grade parking are approximately 43'-0" in height and are permitted in addition to the mapped height of 70'-0" pursuant to Section 59-4.5.2.A.2.e of the Montgomery County Zoning Ordinance. In order to dedicate the public park to the County, it is critical that there not be below grade parking that encroaches under this public space. Since it is necessary to keep the structured parking free and clear of the public park, the Property provides limited space to excavate a parking garage that is functional and feasible entirely below-grade. At least half of these above-grade parking floors' clear ceiling height is above the building height measuring points, in accordance with Section 59-4.1.7.C of the Zoning Ordinance.



LOT 44 - BETHESDA, MD  
MAY 22<sup>ND</sup>, 2024  
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ILLUSTRATIVE N-S BUILDING SECTION  
LOT 44 | 4702 WEST VIRGINIA AVE

V. THE PROJECT SATISFIES THE REQUIREMENTS FOR APPROVAL OF A SKETCH PLAN FOR OPTIONAL METHOD DEVELOPMENT IN THE CR ZONE AND THE BOZ

The Application satisfies all of the requirements for approval of a Sketch Plan under the optional method of development in the CR Zone and the BOZ, as provided in Section 59.7.3.3 of the Zoning Ordinance and discussed fully below.

(1) The Sketch Plan meets the objectives, general requirements, and standards of this Chapter.

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Intent Statement of the CR Zones

Section 59.4.5.1.A of the Zoning Ordinance lists the intents of the CR Zones. The Sketch Plan meets all of these intents, as follows:

- (a) *Implements the recommendations of the Sector Plan.*

The Property is located within the area identified in the Sector Plan as the northern portion of the Eastern Greenway District.

- *Rezone Map #211 to increase the maximum allowable building height from 60T to 70 feet with the goal of converting this parking lot to parkland and Rezone Map #212 from its current zone to CRT 0.5, C-0.25, R-0.5, H-70 to facilitate the eastern greenway if the property redevelops. (Sector Plan, p. 135)*

The Sector Plan identifies the Property as Map #211 and 212, which recommends redevelopment to facilitate a public park that is integrated into the Eastern Greenway. While no public open space is required under Section 59-4.5.4.B.1 of the Zoning Ordinance, the Applicant is proposing to replace this underutilized Property with housing and ±7,000 square foot public park that is integrated into the Eastern Greenway.

- *Parks and open spaces, including new civic greens at Veteran's Park, Bethesda Farm Women's Cooperative Market, Capital Crescent Trail and new urban parks, pathways and gateways. (Sector Plan, p. 6)*

The Applicant is proposing to design, construct and dedicate a ±7000 square foot public park and provide improvements to Chase Avenue urban park to the south.

- *Affordable housing, including the preservation of existing market-rate affordable housing, providing a mix of housing options and the provision of Moderately Priced Dwelling Units in exchange for development incentives. (Sector Plan, p. 6)*

The Project includes deeply affordable for-sale MPDUs which will provide a mix of housing options in Downtown Bethesda. The vast majority of residential development under the Sector Plan has resulted in rental housing, and this Project proposes to provide important home ownership opportunities within the Bethesda CBD.

- *Goal: Create a walkable environment where buildings frame a vibrant public realm and relate to the human scale. Limit the impacts of imposing building massing and bulk, particularly in the design of tall buildings, by designing with sensitivity for their effect on access to sunlight and air, shadows and how they*

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*contribute to the character and visual identity of Downtown Bethesda. (Sector Plan, p. 73)*

The design of the Project allows for pedestrian-oriented architecture that will activate the public park to the east with increased building height that steps up to the more urban Wisconsin Avenue corridor to the west. The redevelopment is compatible with the single-family neighborhood to the east and Sector Plan vision to develop parkland as a transition to the Bethesda CBD.

- *Setback: Allow a sufficient setback from the curb for a clear pedestrian walkway lined by plantings and furnishings per the Bethesda Streetscape Standards. (Sector Plan, p. 73)*

West Virginia Avenue is classified as Neighborhood Local Street in accordance with the Design Guidelines. (Design Guidelines, p. 14). Consistent with the Design Guidelines, the Sketch Plan includes a 21.5-foot build to line along West Virginia Avenue. While the Project does not have frontage on Tilbury Street, it incorporates a  $\pm 43'-6''$  setback from the neighboring property to the east to allow for continuation of the Sector Plan recommended Eastern Greenway that connects to the north (8001 Wisconsin) and south (Chase Avenue urban park).

- *Ensure the stability of the land uses in the transitional area to preserve East Bethesda and the Town of Chevy Chase as single-unit residential neighborhoods. (Sector Plan, p. 133)*

The Project incorporates a 7,000 square foot public park that will be framed by townhouse style multi-family dwellings, which will ensure a compatible transition from Wisconsin Avenue to the established single-family neighborhood to the east. The public park delivered as part of this Project will allow for safe and efficient pedestrian movements to the rest of the Eastern Greenway public open spaces on the neighboring blocks to the north and Chase Avenue urban park to the south.

- *To enhance compatibility with the adjacent residential neighborhood, the required greenway width is equal to the amount of building height proposed. For example, a building proposed to have a maximum height of 50 feet must provide a minimum 50-foot greenway width from the existing curb. All sites should provide at minimum a 35-foot greenway. If this is not feasible because of site constraints, the Planning Board may approve a reduced greenway of no less than 20 feet, with a maximum height of 35 feet if the proposed development otherwise achieves the*

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*Eastern Greenway District vision and is compatible with the surrounding community. (Sector Plan, p. 136)*

The Project is designed with a maximum building height of approximately 43'-6" along the Eastern Greenway, and a 43'-6"-wide greenway width. As a result, the greenway width is greater than the amount of building height proposed in accordance with this recommendation.

- *Make the best use of land near the Bethesda Metrorail Station and future Purple Line station by promoting redevelopment of under utilized properties and private surface parking lots. Parking Lot District (PLD) lots 10, 24, 25 and 44 should be converted to parks to the maximum extent feasible. The parking needs of neighborhood businesses that rely on these lots should be addressed and parking replaced where necessary. (Sector Plan, p. 136)*

The Project will transform an underutilized surface parking lot and single-family detached dwelling into for-sale condominium units (including MPDUs) that have proximity to public parkland, transit, and a mix of commercial uses. The Project will ensure that the parking needs of neighborhood businesses are addressed in two ways. First, the Project includes up to 99 spaces for future unit owners, which will ensure that the Project can adequately accommodate its parking demands on site. Second, the Project is associated with the GDA that will provide for replacement parking in a structured garage two blocks to the north as part of the Lot 25 redevelopment. Therefore, there will be replacement parking to serve the needs of neighborhood businesses in this section of Downtown Bethesda.

- *These parks are envisioned as destinations and pockets of larger green space along the edge of the downtown. Height limits and greenways will ensure compatibility, provide public open space, enhance connectivity and improve environmental quality. (Design Guidelines, p. 100).*

The Project includes a 43'-6"-wide public park that will be integrated into the Eastern Greenway and building form that ensures a compatible transition from Wisconsin Avenue to the established single-family neighborhood to the east. As highlighted above, due to a holdout owner on the adjacent property to the east (fronting Tilbury Street), the Project is necessary to delivering a contiguous link between Chase Avenue Urban Park to the south and the 8001 Wisconsin Avenue project to the north. This public park is envisioned to incorporate seating, activity nodes, flexible lawn space, and a hardscape plaza. The Project furthers the Sector Plan goal for a compatible

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transition by reducing the building height along the Eastern Greenway Park to a maximum of 43'-6" and shifting building height and density further to the west.

- *A. As recommended in the Sector Plan, provide a greenway width that is equal to or greater than the amount of building height proposed. The minimum greenway width is 35 feet. (Design Guidelines, p. 100).*

The Project is designed with a maximum building height of approximately 43'-6" along the Eastern Greenway, and then steps up to accommodate additional building height closer to Wisconsin Avenue. The proposed 43'-6" greenway width matches the proposed building height along this public park, and while the building height increases as it steps up to the west, the height is appropriately setback from Tilbury Street to enhance compatibility with the single-family neighborhood to the east.

- *B. Orient ground floor uses, entries, balconies, and terraces to the greenway. (Design Guidelines, p. 100)*

As illustrated on the plan submittal, the Applicant is proposing to line the Eastern Greenway Park with townhouse style multi-family units that include active elements, such as entrances, balconies and a landscaped pathway.

- *C. Design greenways as primarily landscaped spaces with limited hardscape. Provide adequate lighting continuous pathways, seating and activity areas. (Design Guidelines, p. 100)*

The Project incorporates a design Eastern Greenway that advances this recommendation and is in accordance with the Parks Department's Eastern Greenway Framework Concept. The conceptual design for the Eastern Greenway includes primarily landscaped spaces with a continuous pathway and opportunities for seating and activity areas. The Project represents a critical segment in the Eastern Greenway as it is necessary to provide a connection between the 8001 Wisconsin development and Chase Avenue urban park.

- *D. Coordinate greenway design and transitions with adjoining properties. (Design Guidelines, p. 100)*

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The Applicant's design of the Eastern Greenway on this block has been extensively coordinated with the planned park improvements on the adjacent blocks to the north and south. Lot 44 is being redeveloped pursuant to a GDA that also includes Lot 25. Significantly, the design of the Eastern Greenway on both Lot 25 and Lot 44 has been evaluated to ensure a cohesive and interconnected design. As noted above, the inclusion of 4702 West Virginia is critical to ensuring a direct connection from Chase Avenue Urban Park to the Eastern Greenway blocks to the north.

- *E. Avoid cutting driveways across the greenway where possible. If needed, consolidate vehicular access points and provide the minimum width driveway. (Design Guidelines, p. 100)*

No driveways are proposed to interrupt the Eastern Greenway on this block. A driveway is proposed to the west of the Eastern Greenway along West Virginia Avenue, which will allow for safe and efficient vehicular access to the Project without impacting pedestrian movements along the Eastern Greenway. As described above, the Applicant is seeking a waiver from the requirement that it provide an off-street loading bay due to the unique characteristics associated with the future functions of the Project. MCDOT has provided preliminary approval for an on-street loading space in the West Virginia Avenue right-of-way that will allow for short-term pick-up and drop-off loading functions for this entire block. The proposed location and design of the on-street loading area also provides an opportunity to repurpose the existing right-of-way along the adjacent property to the east with a sidewalk so that there will be safe and efficient access from Tilbury Street to the future public park. In this respect, the access proposed by the Project will allow for greater pedestrian connectivity through the various segments of the Eastern Greenway.

- *Section 2.4.11 Bird-Safe Design. Intent: To design glass buildings to protect local and migratory birds from deadly strikes. Integrate elements into the building and site design to warn birds before they collide. (Design Guidelines, p. 80)*

Since the primary building material is masonry, with only punched glass openings, glazing is not highly reflective. Due to the modeled façade with projections and glazing within masonry openings, shadows will often be present that help mitigate against birds being attracted to the

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structure in flight. Lighting will include full cutoff fixtures with an emphasis on not illuminating the night sky.

- (b) *Targets opportunities for redevelopment of single-use commercial areas and surface parking lots with a mix of uses.*

The Property is currently improved with a public surface parking lot and single-family detached dwelling, which does not represent the highest and best land use as illustrated by the Sector Plan recommendations. The consolidation of these limited and underused surface parking spaces in a parking garage two blocks to the north allows for redevelopment with for-sale condo units (including MPDUs) and a public park that will contribute to the Sector Plan vision for the Eastern Greenway District.

- (c) *Encourages development that integrates a combination of housing types, mobility options, commercial services, and public facilities and amenities, where parking is prohibited between the building and the street.*

The Project includes for-sale housing with proximity to multiple transit stops (red line metro, purple line and future BRT), amenities, and mix of commercial uses. The Applications will provide significant public infrastructure in the form of streetscape improvements on West Virginia Avenue and a ±7,000 square foot public park with a direct connection to Chase Avenue urban park. Additionally, the Project incorporates structured parking as opposed to surface parking between a building and the fronting public streets.

- (d) *Allows a mix of uses, densities, and building heights appropriate to various settings to ensure compatible relationships with adjoining neighborhoods.*

The Project includes a mix of residential and commercial uses (live/work units and/or short-term residential rental units) that will be integrated into a building that is compatible with the surrounding environment. The Project includes the Sector Plan envisioned “green connector and a transition along the eastern edge of the Sector Plan area” through development of a 7,000 square foot public park and building height and form that steps down toward the east. (Sector Plan, p. 133).

- (e) *Integrates an appropriate balance of employment and housing opportunities.*

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The proposed for-sale condo units at the Property will provide much needed housing with proximity to a diverse range of employment opportunities in Downtown Bethesda. As discussed above, the Project includes deeply affordable for-sale MPDUs that will allow for affordable home ownership opportunities for families that do not presently exist in the Bethesda CBD.

- (f) *Standardizes optional method development by establishing minimum requirements for the provision of public benefits that will support and accommodate density above the standard method limit.*

The Project will provide more than the minimum required public benefit points (100 points) from at least four benefit categories, as described in the Public Benefits Table included with the Applications and further delineated below.

#### General Requirements for Optional Method Development in the CR Zone

Section 59.4.5.4.A of the Zoning Ordinance lists the general requirements for development under the optional method in the CR Zone. The Applications meet all of these general requirements, as follows:

- (a) *Procedure for approval.*

The concurrent submission of these Applications allows for approval of both a Sketch Plan and Site Plan amendment in compliance with this requirement. The accompanying Preliminary Plan is consistent with the Sketch Plan and Site Plan amendment such that the Applications can be approved concurrently.

- (b) *Public benefit points and categories.*

The Applications contain Incentive Density Calculations outlining how this optional method development Project will provide the following significant public benefits in order to realize the maximum permitted density on the Property through the CR and CRT Zone and BOZ. The Project will exceed the minimum 100 public benefit points required. The Applications also demonstrate how the Project will satisfy all public benefit point requirements established under the BOZ. All public benefits will comply with the specifications prescribed by the CR Zone

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Incentive Density Implementation Guidelines and BOZ (guided by the Sector Plan recommendations).<sup>6</sup>

(i) *Major public facilities.*

The Application is entitled to receive the maximum allowable 70 public benefit points for providing a major public facility in the form of a 6,011 square foot dedicated and improved public park. The Applicant will design, construct and dedicate approximately 6,011 square feet of public parkland<sup>7</sup> and the Project has a site area of 20,000 square feet. Pursuant to the major public facilities formula in the CR Zone Incentive Density Implementation Guidelines ( $\{[(6,011 + 0)/20,000 * 2] + [(6,011/20,000) * 4]\} * 100 = 180.33$  points), the Application is eligible for the maximum allowable 70 public benefit points. See page 12 of the CR Zone Incentive Density Implementation Guidelines.

(ii) *Diversity of uses and activities.*

- *Live/Work Units.* Up to 6 live/work units are proposed to be delivered in the Project. The Applicant is committing to provide a minimum of 6 live/work units, which represents 10% of the total units (6/59) proposed for the Project and is therefore eligible for 15 public benefit points in this category.

(iii) *Quality building and site design.*

The Application is entitled to receive public benefit points for quality building and site design (approximately 31 points) as noted:

- *Exceptional design.* The design of the Project fulfills the identified criteria in the CR Zone Incentive Density Implementation Guidelines as well as various recommendations of the Sector Plan and Design Guidelines. The Applicant's basis for 20 public benefit points in this category is outlined in the Narrative for Exceptional Design Public Benefit Points Justification attached as Exhibit "C". At its May 22<sup>nd</sup> meeting, the DAP recommended support for the Applicant's requested 20 public benefit points. In addition to the foregoing, the

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<sup>6</sup> The Incentive Density Calculations included with the Application contains in detail the methodology used in calculating each public benefit point category.

<sup>7</sup> Additional fundings is proposed for improvements to Chase Avenue urban park, which is not included in this major public facility calculation.

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Project addresses many of the SITES & LEED recommendations from the Sector Plan by: (a) prioritizing street planting and increasing the overall tree canopy through the Greenway; (b) undergrounding utilities to avoid conflict with street trees; (c) and application of various SITES principles through the building construction.

- *Structured parking.* The Applicant proposes 99 structured parking spaces, with 18 spaces below grade and 81 spaces above-grade. Pursuant to the CR Zone implementation guidelines, the Project achieves 11 public benefit points ( $[(81/99)*10] + [(18/99)* 20]=11.8$  points).

(iv) *Protection and enhancement of the Natural Environment.*

The Project is entitled to receive public benefit points for protection and enhancement of the natural environment (approximately 1 points) as noted:

- *Building lot termination (BLT).* The Applicant anticipates implementing up to 73,841.50 square feet of incentive density from the CR zoned portion of the Property (i.e., the CRT zoned density is not required to provide BLTs).<sup>8</sup> 7.5% of the Project's incentive density amounts to 5,538.11 square feet, or 0.176 of a BLT easement. As such, the Applicant will be required to make a payment to the County's Agricultural Preservation Fund for up to 0.176 BLT easements, which results in approximately 1 public benefit point ( $0.176 \times 9 = 1.5$  points).

(c) *Building type.*

The Project proposes an apartment building. Section 59.4.5.4.A.3 of the Zoning Ordinance notes that all building types allowed under Section 59.4.1.6 are allowed in the CR Zone under optional method development, and Section 59.4.1.6 permits apartment buildings.

(d) *Compatibility standards.*

Section 59.4.1.8.A of the Zoning Ordinance identifies setback compatibility standards for properties in the CR Zone that abut a property in an Agricultural, Rural Residential, or Residential Zone that is vacant or improved with an agricultural or residential use, and that

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<sup>8</sup> The CR zoned incentive density is based on the proportion of the tract area zoned CR (67.57%) after deducting the standard method density (0.5 FAR) allowed for both the CR and CRT zoned portions of the Property. {00596705;2 }

proposes development of an apartment, multi-use or general building type. The Property does not abut a property in an Agricultural, Rural Residential, or Residential Zone; therefore, the setback compatibility standards do not apply to the Project. Additionally, Section 59.4.1.8.B contains height compatibility standards, which apply to a property that abuts or confronts a property in an Agricultural, Rural Residential, or Residential Zone that is vacant or improved with an agricultural or residential use, and that proposes any building type in the CR Zone. While a portion of the Property confronts a R-60 zoned lot to the south, this confronting property is improved with Chase Avenue urban park, which does not constitute a property that is vacant or improved with an agricultural or residential use. As a result, the Project is exempt from the height compatibility standards.

Development Standards for Optional Method Development in the CR Zone

Section 59.4.5.4.B of the Zoning Ordinance lists the development standards for development under the optional method in the CR and CRT Zone. The Sketch Plan meets all of these general requirements, as described and delineated in the development standards chart below:

(a) *Open space.*

The Property has frontage on one master planned right-of-way (West Virginia Avenue) and includes a tract area of less than 1 acre. Based upon these characteristics, the Project is not required to provide any public open space. Notwithstanding the foregoing, the Applicant is proposing to dedicate and construct a  $\pm 7,000$  square foot public park that will be integrated into the Sector Plan recommended Eastern Greenway.

(b) *Lot, density, and height.*

The Project proposes an optional method of development under the CR Zone with up to 120,000 square feet of residential uses and 5,469 square feet of commercial uses on one record lot created through this Preliminary Plan and a subsequent Record Plat process. Based on the Property's split CR/CRT zoning, approximately 70,875 square feet of commercial and residential uses can be constructed under this base density. As a result, the Applicant is seeking an allocation of 54,594 square feet from the BOZ to fill in the allowable building height envelope. While the Project will be seeking an allocation of approximately 54,594 square feet of gross floor area to

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construct the additional multi-family residential uses allowed, the Project will not be subject to a PIP due to the ±6,011 square feet of land dedicated toward the Eastern Greenway pursuant to Section 59-4.9.2.C.2.b.ii.B of the Zoning Ordinance. As shown on Site Plan, the land value of the public park being dedicated far exceeds the PIP otherwise due (\$681,879.06).<sup>9</sup>

*(c) Placement.*

Section 59.4.5.4.B.3 provides that setbacks for principal buildings, accessory structures, and parking are established by the site plan approval process. The proposed setbacks for the Site Plan are as follows: (a) 0 feet on West Virginia Avenue to the north, the public alley to the west, and the paper alley to the south, and (b) 43’-6” to the adjoining property to the east. The Project will incorporate streetscape improvements along West Virginia Avenue that promote multimodal transportation movements pursuant to the Design Guidelines.

*(d) Form.*

The Site Plan incorporates transparent and active entrances along West Virginia Avenue and the future Eastern Greenway public park. While entrances are not contemplated along the south and west elevations, the Project incorporates facades with transparency and high quality materials that is responsive to the surrounding context.

<b>Development Standard</b>	<b>Permitted/Required per the Zoning Ordinance</b>	<b>Proposed for Sketch Plan, Preliminary Plan and Site Plan Approval</b>
<b>Gross Tract Area (GTA)</b>	N/A	32,375 sf
<b>Maximum Density (CR)<sup>10</sup></b> Maximum Non-Residential Density (C) Maximum Residential Density (R)	3.0/0.5 FAR (70,875 sf) 2.0/0.25 FAR (46,375 sf) 2.75/0.5 FAR (65,406 sf)	Up to 3.87 FAR (125,469 sf) Up to 0.17 FAR (5,469 sf) Up to 3.70 FAR (120,000 sf)
<b>Maximum Building Height (H)</b>	70 feet	114 feet <sup>11</sup>
<b>Open Space</b>	0% of net lot area	6,011 sf Eastern Greenway Public Park

<sup>9</sup> The Applicant notes that the square footage associated with MPDUs is also exempt from any PIP pursuant to Section 59-4.9.2.C.3.c.i of the Zoning Ordinance.

<sup>10</sup> The BOZ allows for development applications to exceed their respective mapped density through the allocation of density from the BOZ. The Project is seeking an allocation of 54,594 square feet from the BOZ so that it can exceed the Property’s maximum mapped density (3.0/0.50 FAR) through this Site Plan.

<sup>11</sup> Pursuant to Section 59-4.5.2.A.2.e of the Zoning Ordinance, the Applicant is requesting Planning Board approval for an additional 44’ of height as the delivery of the Eastern Greenway Public Park (a major public facility) “diminishes the ability of the applicant to provide parking at or below grade.”

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<p><b>Vehicle Parking<sup>12</sup></b> Multifamily Dwelling Units</p> <p>Non-residential (live/work &amp; co-working space)</p>	<p>Min. 1 sp/dwelling unit, max. 1 sp/efficiency, 1.25 sp/1 bedroom, 1.50 sp/2 bedroom, and 2.00 sp/3 bedroom</p> <p>Min. 1 sp/dwelling unit, max 1 sp./dwelling unit</p>	<p>Up to 99 parking spaces</p> <p>0 (these uses will be served by the 99 spaces proposed for multi-family units)</p>
<p><b>Bicycle Parking</b> Multifamily Residential</p>	<p>Min. 0.50 sp/dwelling unit, max. 100 sp.</p>	<p>30 (28 long-term, 2 short-term)</p>

**(2) The Sketch Plan substantially conforms with the recommendations of the Sector Plan.**

As discussed in detail above, the Project complies with the Sector Plan’s recommendations for the Property and the surrounding area.

**(3) The Sketch Plan satisfies the binding elements of any development plan or schematic development plan in effect on October 29, 2014.**

There is no approved development plan or schematic development plan for the Property. As a result, this requirement is inapplicable.

**(4) For a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment, the Sketch Plan satisfies any green area requirement in effect on October 29, 2014; any green area under this provision includes and is not in addition to any open space requirement of the property’s zoning on October 30, 2014.**

The zoning on the Property on October 29, 2014 was not the result of a Local Map Amendment, and therefore this requirement is inapplicable.

**(5) The Sketch Plan achieves compatible internal and external relationships between existing and pending nearby development.**

The Sketch Plan is internally and externally compatible with existing and pending development in the vicinity. The Project responds to the surrounding context and Sector Plan vision for the

<sup>12</sup> Pursuant to the BOZ, the minimum number of vehicle parking spaces required is 80% of the baseline minimum reflected in Section 59-6.2.4 of the Zoning Ordinance. *Section 59-4.9.2C.6 of the Zoning Ordinance.*

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Eastern Greenway district by including a 43'-6"-wide dedicated public park that will establish a transition from the single-family neighborhood to the east to the Wisconsin Avenue corridor. The Project includes townhouse style multi-family units facing and activating the public park with a pedestrian scaled building mass that steps up to the west. The proposed access and on-site loading scheme will allow for a pedestrian focused streetscape on West Virginia Avenue that facilitates better connectivity from the proposed public park to the adjacent Eastern Greenway segments on both sides of the Project.

**(6) The Sketch Plan provides satisfactory general vehicular, pedestrian, and bicyclist access, circulation, parking, and loading.**

The Project is limited to one proposed curb-cut on West Virginia Avenue for up to 99 parking spaces in the garage, which is intended to enhance the pedestrian and bike experience along West Virginia Avenue and the future public park. Given the Project's unique functional characteristics relative to loading (i.e., there will be limited demand for a loading bay in a 59 unit for-sale project), the Applicant is seeking a waiver of the required off-street loading space. The requested waiver, which is supported by MCDOT, will allow for an on-street loading space along West Virginia Avenue that will better accommodate the loading needs of the Project and surrounding mix of uses on this block. Additionally, the on-street loading space will allow for a modified right-of-way along the adjoining property to the east's frontage, which can be used to create an off-site sidewalk (constructed by the Applicant) that connects the public park to Tilbury Street and the single-family neighborhood to the east. The Project will also include approximately 30 bicycle parking spaces to accommodate its residents that make use of the bicycle circulation infrastructure in the vicinity.

**(7) The Sketch Plan proposes an outline of public benefits that supports the requested incentive density and is appropriate for the specific community.**

The Project includes a mix of public benefits that further the Sector Plan priorities for public benefits, including the construction and dedication of a 7,000 square-foot public park (a major public facility). The Applications will also achieve public benefit points for exceptional design, live/work units, and Building Lot Terminations (BLTs). In addition to these public benefits, the Project also includes deeply affordable for-sale MPDUs that will provide much needed home ownership opportunities in the Bethesda CBD.

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- (8) The Sketch Plan establishes a feasible and appropriate phasing plan for all structures, uses, rights-of-way, sidewalks, dedications, public benefits, and future preliminary and site plan applications.**

The Applicant plans to construct the Project in one phase.

## **VI. FINDINGS REQUIRED FOR APPROVAL OF THE SITE PLAN APPLICATION**

As described below, the Site Plan satisfies all required findings for approval under Section 59-7.3.4.E of the Zoning Ordinance.

- (1) The proposed development satisfies any previous approval that applies to the site.**

As discussed above, the Applicant is proposing to amend the previously approved Sketch Plan and Site Plan to incorporate Lot 44 and allow for development of the Project. The Site Plan will comply with the Sketch Plan, as amended.

- (2) The proposed development satisfies under Section 7.7.1.B.5 the binding elements of any development plan or schematic development in effect on October 29, 2014.**

There is no approved development plan or schematic development plan for the Property; therefore, this requirement does not apply to the Site Plan.

- (3) The proposed development satisfies under Section 7.7.1.B.5 the binding element any green area requirement in effect on October 29, 2014 for a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment.**

This requirement does not apply to the Project because the zoning classification of the Property in effect on October 29, 2014 was not the result of a Local Map Amendment.

- (4) The proposed development satisfies applicable use standards, development standards, and general requirements under this Chapter.**

As described in Section V.I above (the Sketch Plan required findings for approval), the Site Plan complies with the standards in Division 4.5 of the Zoning Ordinance. As noted below, the Site Plan satisfies the general development requirements in Article 6 of the Zoning Ordinance.

### General Development Requirements

#### *1. Site Access (Division 59-6.1)*

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Vehicular access to the Project is proposed through one curb cut on West Virginia Avenue pursuant to Division 59-6.1. While the Property abuts a 10' wide public alley to the west, access and loading from the public alley is not feasible due to limited alley width. Notwithstanding that the County's Road code (Chapter 49, Article 3 of the County Code) establishes a minimum public alley width of 20 feet, there is no viable path to creating such a section through these Applications. In this respect, the Applicant is seeking relief from dedicating an additional 5 feet of right-of-way toward this non-standard public alley that cannot support access or loading for the Project.

2. *Parking, Queuing, and Loading (Division 59-6.2)*

The Project proposes a total of 99 off-street parking spaces in a parking garage, which is necessary to meet market demands for large for-sale condo units in Bethesda. Additionally, the Applicant is seeking a waiver to eliminate the off-street loading space pursuant to Section 59-6.2.10 of the Zoning Ordinance. The elimination of the off-street loading space will better meet the intent of the parking, queuing and loading standards, which is to "ensure that adequate parking is provided in a safe and efficient manner." The proposed on-street loading space along West Virginia Avenue will take into account the loading and service needs of the Project and the surrounding mix of commercial uses. To this end, the on-street loading space will allow for safe and efficient moving activities, and also serve as a short-term parking space for Amazon, Fedex, UPS, and related deliveries for the entire block. The Applicant will include a provision in the condominium documents that requires the limited loading activities associated with residents moving in and out of the Project to be: (a) coordinated amongst the other unit owners; and (b) conducted outside of the weekday peak hour periods to the maximum extent practical. Additionally, all trash for the Project will be maintained within the parking garage and be collected from the public alley to the west of the Project. The elimination of an off-street loading space will improve pedestrian and bicycle movements along West Virginia Avenue by minimizing the extent of disruptions in the sidewalk. A detailed loading management plan is included with the Applications.

3. *Open Space and Recreation (Division 59-6.3)*

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Since the Property's tract area is less than 1 acre and it has one master planned right-of-way frontage, the Project is not required to provide open space. However, the Applicant is proposing to dedicate approximately 7,000 square feet toward a public park to further the Sector Plan vision for the Eastern Greenway district. The Project also includes private recreation facilities in accordance with Section 59-6.3.9 of the Zoning Ordinance.

4. *General Landscaping and Outdoor Lighting (Division 59-6.4)*

Landscaping and lighting, as well as other site amenities, will be provided to ensure that the Project is safe, adequate, and efficient for residents and visitors to the Project. The landscape and lighting elements constructed are intended to improve water and air quality as identified in Section 59-4.6.1. of the Zoning Ordinance.

5. *Screening Requirements (Division 59-6.5)*

Division 6.5 of the Zoning Ordinance only applies to standard method; therefore, this optional method Site Plan is exempt from screening requirements.

6. *Outdoor Display and Storage (Division 59-6.6)*

This Division is inapplicable because the Project does not propose any outside display or storage.

7. *Signs (Division 6.7)*

The Applicant will obtain all necessary approvals for signage from MCDPS.

**(5) The proposed development satisfies the applicable requirements of: (i) Chapter 19, Erosion, Sediment Control, and Stormwater Management; and (ii) Chapter 22A, Forest Conservation.**

The Property is subject to the requirements of Chapter 22A of the Montgomery County Code (the "Forest Conservation Law"). A Natural Resources Inventory/Forest Stand Delineation ("NRI/FSD") (No. 420241190) was prepared for the Property and approved by M-NCPPC on February 23, 2024. The NRI/FSD demonstrates that there are no forested areas directly on-site. A Preliminary Forest Conservation Plan has been submitted concurrently with these Applications, which demonstrates the Project's conformance with the Forest Conservation Law. The Project will provide the required 0.09 acres of afforestation through an off-site forest mitigation bank or through a fee-in-lieu payment. The Property contains no floodplain, protected soils, endangered species, or other natural features that would impact development. The project will seek a variance for removal of 3 trees and impacts to 5 trees greater than 30" diameter breast  
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height (DBH). Mitigation for these removals/impacts will be provided through the planting of 6 new trees on the eastern greenway site.

The Project will comply with the requirements of Chapter 19 of the Montgomery County Code. Currently, there is no stormwater management on the Property. As such, the Property does not treat either water quality or water quantity on-site. Rather, any water that falls on the Property, continues to flow into the storm drain system unmanaged. As such, the Project provides an opportunity to greatly improve the treatment of stormwater runoff on-site. Applicable requirements under Chapter 19 are addressed in a Combined Stormwater Management Concept & Site Development Stormwater Management Plan submitted to the Montgomery County Department of Permitting Services ("DPS") under plan number 285629. As illustrated on the Concept Stormwater Management Plan, the Project will provide Environmental Site Design ("ESD") to the maximum extent practicable using structural micro-bioretenion planters and green roofs. The micro-bioretenion planters will receive runoff from the townhouse portion of the project, and the tower structure will be covered by approximately 7,000 square feet of 8" green roof (35% of the development property). An additional micro-bioretenion planter is located on the eastern greenway to provide stormwater management for that property. As there is inadequate space on the properties or in the right of way to provide any further ESD or underground stormwater management, a partial waiver is also proposed.

**(6) The proposed development provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities.**

The Site Plan provides safe and well-integrated parking and circulation patterns by limiting the Property's frontage to one curb-cut, which will provide access to the parking garage. The Site Plan incorporates well-integrated building massing and open spaces by responding to the surrounding context and Sector Plan vision for the Eastern Greenway district. More specifically, the Project includes a 43'-6"-wide dedicated public park that will establish a transition from the single-family neighborhood to the east to the Wisconsin Avenue corridor. The Project includes townhouse style units facing and activating the public park with a pedestrian scaled building mass that steps up to the west. The proposed access and on-site loading scheme will allow for a

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pedestrian focused streetscape on West Virginia Avenue that facilitates better connectivity from the proposed public park to the adjacent Eastern Greenway segments on both sides of the Project.

- (7) **The proposed development substantially conforms with the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan.**

As described in Section V.I above, the Site Plan substantially conforms with the Sector Plan recommendations for the Property and surrounding Eastern Greenway district.

- (8) **The proposed development will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the development is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage.**

Pursuant to the 2020 – 2024 Growth and Infrastructure Policy (the “GIP”), the adequacy of transportation facilities is based upon an analysis of vehicular, transit, pedestrian and bike conditions. As illustrated in the Traffic Statement (dated March 29, 2024) submitted for the Project, the Property is located in the Bethesda CBD policy area, which is identified as a Red Policy Area in the GIP. The Project will generate 26 net-new AM and 39 net-new PM peak hour person trips. Section TL of the GIP states that “LATR adequacy tests are required for any subdivision that generates 50 or more peak-hour weekday person trips.” Since the Project generates less than 50 peak-hour weekday person trips, the Applications are exempt from review under the LATR adequacy tests.

Other public facilities and services are available and will be adequate to serve the Project. The Project will be served by Bethesda Elementary School, Westland Middle School and Bethesda-Chevy Chase High School. Pursuant to the Schools Test for FY 2024, all three schools serving the Project have adequate capacity. The Property is served by public water and sewer and is assigned WSSC categories W-1 and S-1. The existing water and sewer lines will be adequate to serve the additional development proposed by the Project. Dry utilities including electricity, gas,

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and telephone are also available to the Property. Last, appropriate emergency access measures will be developed providing adequate facilities for fire and rescue personnel to serve the Project.

**(9) On a property in a Rural Residential or Residential zone, the proposed development is compatible with the character of the residential neighborhood.**

This Property is zoned CR and CRT; thus, this provision is not applicable.

**(10) On a property in all other zones, the proposed development is compatible with existing and approved or pending adjacent development.**

As discussed above, the Project is compatible with existing and approved pending adjacent development as it will replace impervious cover (under-utilized public parking) with for-sale condo units, dedicated parkland, and pedestrian infrastructure to further the Sector Plan vision for the Property. The Project's dedication of a 43'-6"-wide public park that will be integrated into the Eastern Greenway and building form that ensures a compatible transition from Wisconsin Avenue to the established single-family neighborhood to the east. As highlighted above, due to a holdout owner on the adjacent property to the east (fronting Tilbury Street), the Project is necessary to delivering a contiguous link between Chase Avenue Urban Park to the south and the 8001 Wisconsin Avenue project to the north. This public park is envisioned to incorporate seating, activity nodes, flexible lawn space, and a hardscape plaza. The Project furthers the Sector Plan goal for a compatible transition by reducing the building height along the Eastern Greenway Park to a maximum of 43'-6" feet and shifting building height and density further to the west.

**VII. PRELIMINARY PLAN**

The Preliminary Plan complies with all required findings under the Subdivision Regulations and will allow for the addition of the proposed for-sale condo units, a public park, streetscape improvements, and private amenities. As noted below, the Preliminary Plan application satisfies each of the findings that the Planning Board must make:

1. *The layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.*

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The Preliminary Plan will allow for consolidation of Lot 44 and 4702 West Virginia Avenue into one buildable record lot, and public park lot dedicated to the County. The size, width, shape, orientation, and density of the proposed record lots are appropriate and consistent with the Sector Plan recommendations for the Eastern Greenway. The buildable record lot will have frontage on West Virginia Avenue, which allows for safe and efficient vehicular, pedestrian and bicycle access to the Project. As stated above, the Applications also satisfy all requirements under the Zoning Ordinance.

*Abandonment of previously unused/unimproved paper alley*

Pursuant to Section 49-68 County Code, the Applications propose abandonment of a large portion of a previously unused 10'-wide paper alley that runs in an east/west direction to the south of the Property. The portion of the paper alley proposed to be abandoned was never improved or used for the purposes for which it was intended or dedicated (i.e., a service alley for vehicles), and the right-of-way is not necessary for anticipated public use. As detailed in the plan submittals, the easternmost portion of the paper alley is proposed to be abandoned because it is contiguous to Chase Avenue Urban Park and the future Greenway parcel that will be dedicated by the Applicant. The westernmost portion of the paper alley, adjacent to the high-rise portion of the Project, must be maintained to satisfy fire department access and building code requirements. The proposed abandonment will allow for more publicly accessible open space and enhance the Eastern Greenway. Significantly, the proposed abandonment satisfies Section 49-68(e) of the County Code as the right-of-way is not necessary for anticipated future public use given that the Sector Plan does not recommend improving or otherwise putting this paper alley into public use. Alternatively, the Sector Plan contemplates an interconnected park network in the form of the Eastern Greenway, and abandoning this right-of-way will further that vision. The alternative, reduced alignment of the paper alley will not adversely affect the public interest because it allows for creation of additional green space (including an outlot created for Parks Department to integrate into Chase Avenue Urban Park) that will result in eventual realization of four (4) consecutive blocks of interconnected park space.

*North/South Service Alley to West of the Property*

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The Property abuts a 10' wide public alley to the west; however, access and loading from the public alley is not feasible due to limited alley width and lack of an opportunity to obtain additional right-of-way from the property to the west of the alley for the foreseeable future. Notwithstanding that the County's Road code (Chapter 49, Article 3 of the County Code) establishes a minimum public alley width of 20 feet, there is no viable path to creating such a section through these Applications. In this respect, the Applicant is seeking relief from dedicating an additional 5 feet of right-of-way toward this non-standard public alley that cannot support access or loading for the Project. The design of the Project includes an on-street loading space that will better serve the future needs of residents and allow for safe and efficient vehicular and pedestrian movements. It is also significant that the Applications include a substantial dedication on the eastern portion of the Property to allow for a 43'-6"-wide public park that is contemplated by the Sector Plan. If the Project were required to dedicate an additional 5' on this non-standard alley, it would substantially impair its ability to deliver the quality of housing necessary to absorb the cost of dedicating and constructing the public park and delivering deeply affordable for-sale MPDUs.

2. *The Preliminary Plan substantially conforms to the Sector Plan.*

As described in detail above, the Project substantially conforms to the Sector Plan recommendations for the Property.

3. *Public facilities will be adequate to support and service the area of the subdivision.*

As described above in detail above, all public facilities will be adequate to support and service the Project.

4. *All Forest Conservation Law, Chapter 22A requirements are satisfied.*

The Property is subject to the requirements of Chapter 22A of the Montgomery County Code (the "Forest Conservation Law"). A Natural Resources Inventory/Forest Stand Delineation ("NRI/FSD") (No. 420241190) was prepared for the Property and approved by M-NCPPC on February 23, 2024. The NRI/FSD demonstrates that there are no forested areas directly on-site. A Preliminary Forest Conservation Plan has been submitted concurrently with these Applications, which demonstrates the Project's conformance with the Forest Conservation Law.

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The Project will provide the required 0.09 acres of afforestation through an off-site forest mitigation bank or through a fee-in-lieu payment. The Property contains no floodplain, protected soils, endangered species, or other natural features that would impact development. The project will seek a variance for removal of 3 trees and impacts to 5 trees greater than 30” diameter breast height (DBH). Mitigation for these removals/impacts will be provided through the planting of 6 new trees on the eastern greenway site.

5. *All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied.*

The Project will comply with the requirements of Chapter 19 of the Montgomery County Code. Currently, there is no stormwater management on the Property. As such, the Property does not treat either water quality or water quantity on-site. Rather, any water that falls on the Property, continues to flow into the storm drain system unmanaged. As such, the Project provides an opportunity to greatly improve the treatment of stormwater runoff on-site. Applicable requirements under Chapter 19 are addressed in a Combined Stormwater Management Concept & Site Development Stormwater Management Plan submitted to the Montgomery County Department of Permitting Services ("DPS") under plan number 285629. As illustrated on the Concept Stormwater Management Plan, the Project will provide Environmental Site Design ("ESD") to the maximum extent practicable using structural micro-bioretenion planters and green roofs. The micro-bioretenion planters will receive runoff from the townhouse portion of the project, and the tower structure will be covered by approximately 7,000 square feet of 8” green roof (35% of the development property). An additional micro-bioretenion planter is located on the eastern greenway to provide stormwater management for that property. As there is inadequate space on the properties or in the right of way to provide any further ESD or underground stormwater management, a partial waiver is also proposed.

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VIII. CONCLUSION

The Applicant requests approval of these combined Applications that have been designated for speed to market to allow for development of this optional method development Project with significant public benefits envisioned by the Sector Plan. The Project satisfies all of the findings that the Planning Board must make in approving a Sketch Plan, Preliminary Plan and Site Plan under the CR Zone and the BOZ. The Project’s inclusion of a ±7,000 square foot public park will help to bring the Sector Plan vision for the Eastern Greenway to fruition by providing a critical link between Chase Avenue urban park and the proposed public open space by the 8001 Wisconsin project to the north. The Project will also include important deeply affordable for-sale MPDUs in family sized units, with proximity to transit, employment and public amenities.

Respectfully submitted,

**Selzer Gurvitch Rabin Wertheimer & Polott, PC**

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By: \_\_\_\_\_

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